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FOR PUBLIC INSPECTION**

March 22, 2010

Via Hand Delivery

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th St., SW
Washington D.C. 20554

FILED/ACCEPTED**MAR 22 2010**Federal Communications Commission
Office of the Secretary

Re: Response to Information Request Re Applications of Atlantic Tele-Network, Inc.
and Cellco Partnership d/b/a Verizon Wireless for Consent To Assign or Transfer
Control of Licenses and Authorizations (WT Docket No. 09-119)

Telephone USA Investments, Inc. ("Telephone USA"), by its attorneys, is filing the attached response and supporting documents in response to the Commission's March 12, 2010 information request.¹ This letter and the attached documents demonstrate Telephone USA's active participation between November 2008 and August 2009 in the bidding process for the divestiture properties at issue in the above-captioned proceeding (the "Divestiture Properties").² During that period, Telephone USA made four timely bids for various configurations of the licenses Verizon Wireless was ordered to divest, each of which conformed to the rules and deadlines set by Verizon Wireless and Morgan Stanley, the broker hired by Verizon Wireless to auction those properties. Telephone USA remained in nearly constant ongoing discussions with both Verizon Wireless and Morgan Stanley regarding various aspects of the bids. Moreover, the documents establish that Telephone USA was committed to financing its bids for the purchase of the Divestiture Properties and that it had a clear plan for doing so that it communicated to Verizon Wireless. And, the documents show that Telephone USA's final bid was substantially higher than that of Atlantic Tele-Network ("ATN"), the purchaser selected for the Divestiture Properties by Verizon Wireless and Morgan Stanley.

This response thus reinforces Telephone USA's position that the "bidding" process that led to the sale agreement between Verizon Wireless and ATN and the instant applications

¹ See Letter from Ruth Milkman, Chief, Wireless Telecommunications Bureau, to Joseph A. Stroud, Chairman, Telephone USA, dated March 12, 2010 (the "March 12 Letter"). The March 12 Letter stated that the Commission "would appreciate receiving your response to each inquiry no later than March 22, 2010." Telephone USA has sought diligently to compile and organize the extensive documentation of its substantial participation in the bidding process for Verizon Wireless's divestiture process over a period of seven months to meet the Commission's request, and the attached submission represents the bulk of the responsive documents within the company's possession. Telephone USA continues to review its files, however, and reserves the right to make a supplemental filing, including additional responses and responsive documents.

² The Divestiture Properties include licenses in Illinois, Ohio, Georgia, North Carolina, South Carolina, Idaho. As the documents also show, Telephone USA was an active bidder for the properties Verizon sold to AT&T in a transaction the Commission is considering in WT Docket No. 09-104

discriminated against small independent bidders, particularly Telephone USA.³ Verizon Wireless and Morgan Stanley ignored a viable bid from Telephone USA, a small independent bidder, which happens to be a minority-owned business, with nearly a decade of experience in the domestic telephone industry in favor of ATN, without experience in domestic retail telecommunications service and in which Morgan Stanley had accumulated a significant financial interest. The Commission cannot approve the applications without sanctioning Verizon Wireless's discriminatory process.

I. Telephone USA Was an Active and Serious Bidder for the Divestiture Properties From November 2008 Through June 2009.⁴

The attached documents include the ongoing correspondence between Telephone USA and Verizon Wireless that show Telephone USA was an active bidder for the Divestiture Properties from its commencement in the fall of 2008 through the selection of ATN as the purchaser in June 2009. The documents show that Telephone USA went to great effort and expended tremendous time and resources to make a continuous good-faith effort to purchase some or all of Verizon Wireless's available properties. Rather than cooperating with Telephone USA to conclude a deal, Verizon Wireless and Morgan Stanley blindly insisted that Telephone USA provide funding commitments even though Verizon Wireless was unwilling to provide Telephone USA with any certainty whatsoever about which licenses it would sell and at what price. They insisted on these commitments even after Telephone USA explained that such commitments were unavailable to a small independent business without certainty regarding the parameters of a proposed deal. Thus, Verizon Wireless was unwilling to take the steps reasonably necessary to provide a small independent business like Telephone USA a legitimate opportunity to acquire any of those properties.

Telephone USA's participation in the bidding process for the Divestiture Properties commenced in November 2008 following a discussion between the company's principal, Joseph A. Stroud and the CEO of Verizon Wireless, Ivan Seidenberg. At that time, Mr. Seidenberg encouraged Mr. Stroud to participate in the bidding process. In subsequent conversations, Mr. Seidenberg expressed to Mr. Stroud that he did not believe financing for the Divestiture Properties should be a problem, reiterated Verizon Wireless's desire to work with Telephone USA, and encouraged Mr. Stroud to continue with the bidding process. The attached correspondence shows that Morgan Stanley and Verizon Wireless did continue to communicate with Telephone USA and to encourage the company's participation.

Over the course of its seven months of active participation in the bidding process, Telephone USA submitted four bids, each of which satisfied the procedures and deadlines established by Morgan Stanley. The table below reflects the substance of Telephone USA's bids, with references to the document numbers in the attached submission.

³ Telephone USA's Petition to Deny describes in detail the failures of Morgan Stanley's "bidding" process. See Petition to Deny of Telephone USA, Investments, Inc. WT Docket No. 09-119 (filed Aug. 10, 2009) ("Petition to Deny"). Telephone USA highlights those failures herein only to the extent necessary to respond to the Commission's information requests.

⁴ This section of Telephone USA's response provides answers to Questions 1 and 2 of the March 12 Letter.

Deadline for Bid	Date of Telephone USA Bid	Properties	Total Bid	Document No.
December 24, 2008	December 24, 2008	North Dakota, South Dakota, Minnesota, Montana	\$1-1.5 Billion	TELEPHONE USA 0000239
March 31, 2009	March 30, 2009	All Available Properties	\$4.025 Billion	TELEPHONE USA 0000355
		North Dakota, South Dakota, Minnesota, Montana	\$1.3 Billion	
June 3, 2009	June 3, 2009	Illinois, Ohio, Georgia, North Carolina, South Carolina, Idaho	\$1.025 Billion	TELEPHONE USA 0000776
June 8, 2009	June 8, 2009	Illinois, Ohio, Georgia, North Carolina, South Carolina, Idaho	\$1.025 Billion	TELEPHONE USA 0000808

In accordance with the original bidding schedule established by Morgan Stanley in its November 7, 2008 letter outlining the bidding procedures, on Christmas Eve 2008, Telephone USA submitted its initial bid for Verizon Wireless licenses in North Dakota, South Dakota, Minnesota, and Montana. The bid for the properties was between \$1 and \$1.5 billion and it contemplated a closing date within 60 to 90 days, during which a final purchase price within the bid range would be negotiated and financing would be finalized.

During the first week of January 2009, Morgan Stanley informed Telephone USA that the deadline for bids had been extended to March 31, 2009 and also indicated that a bid for all available properties or a larger cluster than the one included in Telephone USA's original bid would be more likely to be successful. On March 30, 2009, Telephone USA submitted its second bid, which consisted of an offer of \$4.025 billion for all available licenses or, in the alternative, \$1.3 billion for the North Dakota, South Dakota, Minnesota, and Montana markets.

In conjunction with its March 30, 2009 bid, Telephone USA also worked with its counsel to review and provide Verizon Wireless with comments on all of the documents that would be necessary for ultimate completion of the purchase of the Verizon Wireless properties. These documents included an Asset Purchase Agreement, a Transition Services Agreement with associated schedules, and an Inter-carrier Roaming Agreement. These documents were completed and sent to Verizon Wireless on April 5, 2010.

On or about April 9, 2009, Mr. Stroud wrote to Mr. Seidenberg to inform him that Telephone USA remained ready to move forward with the acquisition of Verizon Wireless's

licenses, but sought clarification on exactly which licenses Verizon Wireless would sell to Telephone U.S.A. and at what price. Mr. Stroud explained that for small independent businesses, certainty that a deal could be completed is essential to securing the financing commitments Verizon Wireless was seeking. In subsequent conversations with Verizon Wireless executives, Mr. Stroud and his financial advisor, Mr. George Muñoz, were assured that obtaining financing for Verizon Wireless's properties would not be a problem and that Verizon Wireless would work with Telephone USA.⁵ Shortly thereafter, on or about April 22, 2009, Verizon Wireless chose to sell most of its available properties to AT&T, leaving licenses in six states.

Following Verizon Wireless's announcement of its deal with AT&T, Morgan Stanley set a deadline of June 3, 2009 for parties to submit bids for the remaining Divestiture Properties. On that date, Telephone USA submitted its bid of \$1.025 Billion for those Divestiture Properties. Telephone USA's bid sought a thirty-day exclusivity period to negotiate the details of an agreement and finalize financing. In addition to facilitating Telephone USA's participation, the 30-day exclusivity period was compatible with Verizon Wireless's timeframe because Verizon Wireless had obtained from the FCC an extension of the divestiture period through July 8, 2009, an extension that Telephone USA supported in publicly filed comments.⁶

Verizon Wireless, however, objected to the portion of Telephone USA's bid that called for the 30-day exclusivity period. On June 8, 2009, Verizon Wireless informed Telephone USA that if it wished to have its bid considered, it had to remove that provision and resubmit the bid by 10 PM that evening. Shortly before that deadline, Telephone USA acceded to the request and resubmitted its June 3, 2009 bid with the exclusivity provision removed. The next morning, Verizon Wireless announced that it had reached agreement with ATN for sale of the remaining Divestiture Properties at a small fraction of the price Telephone USA had bid.

Thus, despite Telephone USA's months of effort and expense, Verizon Wireless ended up selling the Divestiture Properties to a company that had at least one quality Telephone USA lacked – it had the good fortune of being partially owned by Verizon Wireless's agent, Morgan Stanley. The Commission cannot simply ignore the established fact that Verizon Wireless's

⁵ Nonetheless, on April 20, 2009, following Telephone USA's continuing effort to assemble financing for all available properties, Mr. Stroud informed Mr. Seidenberg that the depressed capital markets could not provide private capital sufficient to enable Telephone USA to acquire all of the available properties and reiterated Telephone USA's desire to work with Verizon on a deal for a subset of those properties. This analysis proved correct, as Verizon Wireless was unable to secure a single deal that disposed of all the available properties. In that letter, Mr. Stroud also proposed that Verizon grant Telephone USA a period of exclusivity to negotiate purchase of a subset of Verizon properties to provide the necessary certainty that would help Telephone USA finalize its financing for any acquisition. Such exclusive negotiating periods are often used to provide small independent businesses with an opportunity to obtain financing for large-scale acquisitions. Ten years ago, GTE granted Mr. Stroud's Telephone USA a period of exclusivity to negotiate the purchase of the Wisconsin telephone exchanges the company now serves.

⁶ See Letter from Katherine M. Harris, deputy chief, Mobility Division, to Nancy J. Victory, counsel for Verizon, WT Docket No. 08-95, dated May 6, 2009; *see also* Comments in Support of Request for Extension of Management Period, WT Docket No. 08-95 (filed April 28, 2009). On June 5, 2009, Verizon also was granted an extension of the divestiture period by the Department of Justice.

agent increased its equity holdings in ATN while the bidding process was ongoing.⁷ Verizon Wireless and Morgan Stanley argue that this fact is irrelevant to approval of the applications and that the amounts of money involved in Morgan Stanley's investment in ATN are too small to tempt the company to favor ATN. But the Commission cannot ignore such a flagrant conflict of interest on the part of the key agent of its licensee in this process. The bidding process in this case is inseparable from the transaction the Commission is being asked to approve and that process clearly was tainted by Morgan Stanley's obvious interest in the outcome. The size of that interest in relation to Morgan Stanley's overall worth is meaningless; the Commission has no basis for judging how big Morgan Stanley's stake in ATN would have to be to influence its advice to Verizon Wireless. Nor can the Commission accept Morgan Stanley's *ipse dixit* that its internal controls kept its interest in ATN from influencing its advice to Verizon Wireless, especially because public filings reflected Morgan Stanley's ownership in ATN and such information was accessible to the Morgan Stanley team working on the bid selection process. Without an investigation, the Commission has absolutely no way of knowing the substance of Morgan Stanley's internal controls or whether they functioned properly in this case. Telephone USA has called for a hearing in this case, and this issue should certainly be one of those designated for hearing in this matter.

In light of these facts and the attached documentary support, no basis exists for challenging the fact that Telephone USA was a continuous, serious, good-faith bidder for the Divestiture Properties. Instead, the evidence shows that Verizon Wireless and Morgan Stanley failed to respect and implement the Commission's intention that small independent businesses like Telephone USA be meaningfully included in the bidding process. And, they failed to conclude a straight-forward, untainted process whereby the highest, most-credible bidder obtained the properties. Verizon Wireless and Morgan Stanley corresponded with Telephone USA and accepted its bids, but they refused to provide Telephone USA with the certainty regarding the transaction that it needed to secure the financing commitments that Verizon Wireless and Morgan Stanley demanded. Rather than help Telephone USA resolve this catch-22, Verizon Wireless simply picked a different buyer that offered a lower bid and that was partially owned by its agent Morgan Stanley.

II. Telephone USA Was Capable of Financing Its Bid for the Divestiture Properties.⁸

The thrust of Verizon Wireless's opposition to Telephone USA's Petition to Deny and the impetus to the Commission's third inquiry in the March 12 Letter is the claim that Telephone USA could not finance its bid for the Divestiture Properties. This is simply false. Telephone USA's principal, Joseph Stroud, has more than 30 years experience in the communications industry and has financed deals to acquire over-the-air broadcast television stations and local telephone exchanges. In all that time, Mr. Stroud never has failed to gain financing for a deal he

⁷ See Petition to Deny at n.5; *Ex Parte Communication* from Vicki Iseman, Partner, Alcalde & Fay, to Marlene H. Dortch, WT Docket No. 09-119 (filed Mar. 18, 2010); Letter and accompanying attachment from Vicki Iseman, Partner, Alcalde & Fay, to Marlene H. Dortch, WT Docket Nos. 09-104 and 09-119 (filed Mar. 4, 2010).

⁸ This section of Telephone USA's response provides answers to Question 3 of the March 12 Letter. Attached documents, in particular USA TELEPHONE 0000814-0000879, include evidence of Telephone USA's substantial efforts to obtain financing for its bid on the Divestiture Properties.

initiated or failed to meet the obligations of debt financing incurred by any of his companies. Mr. Stroud had both the ability and the intention to finance and close on his bid for the Divestiture Properties.

The truth is that Telephone USA expended considerable time and resources securing the financial support necessary to move forward with its bid on the Divestiture Properties. Telephone USA retained the services of George Muñoz of Muñoz Investment Banking Group, LLC ("Muñoz Group") to perform valuation services, prepare Telephone USA's bids, and help coordinate financing of the eventual purchase. As part of this assignment, the Muñoz Group evaluated the financial capabilities of Mr. Stroud directly and through Telephone USA, and concluded that financing would be available for the properties being bid. This opinion was given to Morgan Stanley. Telephone USA and Mr. Muñoz also had discussions with a number of potential investors and lenders.

Verizon Wireless claims that Mr. Stroud's inability to provide financing for the deals is demonstrated by Telephone USA's decision not to provide equity and debt commitment letters in the form requested by Verizon Wireless. But Mr. Stroud and Mr. Muñoz explained to Verizon Wireless and Morgan Stanley the difficulties that small independent businesses face in gaining financial commitments before investors and lenders are confident that a deal will be concluded. And, as ATN itself admitted in its press release following the deal, its own financing was contingent on lender approval,⁹ so it isn't even clear that Verizon Wireless and Morgan Stanley were gaining any actual certainty by insisting on the commitment letters it now says were key to its rejection of Telephone USA's bid. Verizon Wireless and ATN claim that their "purchase agreement" has no financing contingency. Of course not, because it is already an agreement to buy and sell; Telephone USA offered the same. Moreover, Verizon Wireless and Morgan Stanley argue as if investors and lenders provide unconditional commitment letters for free, but they don't. Financial institutions want to know exactly what properties and what terms of sale are involved before giving "unconditional" commitments.

As it explained to Verizon Wireless and Morgan Stanley, Telephone USA had a plan to secure financing for its bid. Mr. Stroud, whose financial wherewithal is unquestionable – a fact Verizon Wireless and Morgan Stanley would have found had they checked – was prepared to provide most of the equity for the purchase and Telephone USA would have used the licenses as collateral to secure the necessary debt financing. The Divestiture Properties were not questionable assets and there is no doubt that if Verizon Wireless had selected Telephone USA, debt financing would have been available. Indeed, that is precisely why Mr. Seidenberg and other Verizon Wireless executives indicated that financing should not be a problem for the Divestiture Properties. Had Verizon Wireless given Telephone USA what it ended up giving to ATN (exclusivity to enter into the purchase agreement), Telephone USA would have closed the deal, just as Mr. Stroud has been closing similar deals for the past 30 years.

⁹ See March 18 *Ex Parte* at 2 (citing ATN Press release (released June 9, 2009), available at <http://ir.atni.com/jreleasedetailcfm?ReleaseID=402564>).

Instead, Verizon Wireless culminated a deeply flawed process, biased throughout against the very types of businesses the Commission instructed should be included, by selecting ATN's bid, which was a fraction of Telephone USA's. Had Verizon Wireless or Morgan Stanley provided any indication that the Divestiture Properties could be had at such a low price, Telephone USA easily might have financed the purchase using only its own cash on hand and other assets as collateral. Telephone USA wasn't the only one surprised by the rock-bottom price paid by ATN – Wall Street rewarded the company with a 40% increase in its stock value (much to the benefit of Morgan Stanley) and the trade press noted that the “extremely attractive price” paid by ATN was less than 15% on a per-sub basis of the price AT&T paid for the bulk of Verizon Wireless's divestiture assets just two months earlier.¹⁰

Verizon Wireless's willingness to part with the Divestiture Assets so cheaply while refusing to make the most basic accommodations for a viable small independent business bidder ignored the FCC's direction that such candidates be meaningfully included in the bidding process. And, because no one gives valuable assets at a discount, we have to believe that something else was going on behind the scenes that justified the give away to ATN. That Verizon Wireless now blames Telephone USA for failing to provide sufficient financial information just adds insult to the public interest injury suffered every time a company like Telephone USA gets shut out of the process. Worst of all, given the consolidation of the wireless industry, this may be the last chance for a small independent business like Telephone USA to enter the wireless business as a significant player. The Commission should not let Verizon Wireless close the door on small independent participation without closely scrutinizing its explanation for excluding Telephone USA. As the foregoing demonstrates, that explanation has enough holes that a hearing is warranted to determine whether other motives were at play.

This submission includes confidential material subject to the first Protective Order in this proceeding.¹¹ The relevant pages of the filing, including all documents produced in repose to this request, are marked as directed in the Protective Order.¹² In accordance with the March 12 Letter, Telephone USA is providing an original and one copy of the company's confidential

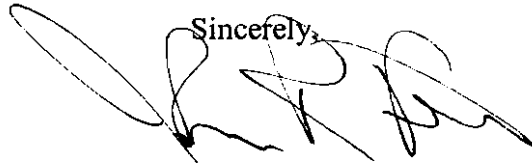
¹⁰ See, e.g., Eric Savitz, *Atlantic Tele-Network Soars on Verizon Wireless Deal*, Tech Trader Daily Blog, June 10, 10:51 AM entry, available at <http://blogs.barrons.com/techtraderdaily/2009/06/10/atlantic-tele-network-soars-on-verizon-wireless-deal/>.

¹¹ See Applications of Atlantic Tele-Network, Inc. and Celco Partnership d/b/a Verizon Wireless for Consent To Assign or Transfer Control of Licenses and Authorizations, *Protective Order*, WT Docket No. 09-119, DA 09-2448 (rel. Nov. 19, 2009).

¹² Telephone USA is in possession of the original Offering Memorandum distributed by Verizon Wireless to Telephone USA in November 2008. Telephone USA believes this document is responsive to the Commission's inquiries and has numbered it Telephone USA 0000010-0000234, but pursuant to a non-disclosure agreement, Telephone USA is not permitted to provide that document without first notifying Verizon. By copy of this letter, we are advising Verizon that we plan to file a designated confidential copy of the Offering Memorandum with the Commission on Thursday, March 25, 2010.

Marlene H. Dortch, Esq.
March 22, 2010
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filing and four copies of a redacted version of the filing with the Secretary's Office, as well as additional courtesy copies to parties designated by the Commission as noted below.

Sincerely,

John R. Feore, Jr.
Counsel for Telephone USA
Investments, Inc.

cc: Wireless Telecommunications Bureau (2 copies of confidential filing, 2 copies of redacted filing)
Ruth Milkman (1 copy of confidential filing)
Kathy Harris (2 copies of confidential filing, 2 copies of redacted filing)
Erin McGrath (1 copy of confidential filing)
Stacy Ferraro (1 copy of confidential filing)
David Krech (1 copy of confidential filing)
Neil Dellar (1 copy of confidential filing)
Best Copy and Printing, Inc. (1 copy of redacted filing)

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of

Applications of Atlantic Tele-Network,
Inc. and Celco Partnership d/b/a Verizon
Wireless for Consent To Assign or
Transfer Control of Licenses and
Authorizations

}
}
}
} WT Docket No. 09-119

DECLARATION OF GEORGE MUÑOZ

1. My name is George Muñoz and I am a Principal and co-founder of Muñoz Investment Banking Group, LLC, an investment banking firm focused on emerging markets and emerging technologies. Prior to founding the Muñoz Group, I was President and chief Executive Officer of the Overseas Private Investment Corporation ("OPIC"), an independent agency of the federal government, from 1997-2001. In that position I oversaw an \$18 billion portfolio of loans, guarantees and political risk insurance on private sector investments in the emerging markets. Prior to my work with OPIC, I served as Assistant Secretary and Chief Financial Officer of the U.S. Treasury Department from 1993-1997, where I oversaw the Treasury's budget, financial statements and management policies. I also was partner of the Chicago investment banking firm of Stevenson, Colling & Muñoz from 1990-1993, and I was an associate and then partner at the Chicago law firm of Mayer Brown and Platt from 1980-1989.
2. I and my investment banking firm provided strategic guidance, valuations, and financial advice to Joseph A. Stroud and Telephone USA Investments, Inc. in connection with bids for the wireless properties that became available as a result of the merger of Verizon Wireless and Alltel, and I communicated with Morgan Stanley regarding Mr. Stroud's bid on a number of occasions.
3. I have read the foregoing response to the FCC's March 12 information request, and I am familiar with the contents thereof.
4. I declare under penalty of perjury that the facts contained herein and in the foregoing response are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry.



George Muñoz, Principal
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2111 Wilson Boulevard, Suite 850
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703-516-4110

Dated: March 22, 2010

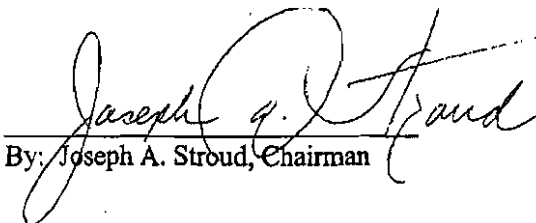
**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of

Applications of Atlantic Tele-Network, Inc. and Celco Partnership d/b/a Verizon Wireless for Consent To Assign or Transfer Control of Licenses and Authorizations	} } } }	WT Docket No. 09-119
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DECLARATION OF JOSEPH A. STROUD

1. My name is Joseph A. Stroud, and I am Chairman of Telephone USA Investments, Inc. ("Telephone USA"). Telephone USA and CenturyTel, Inc. own Telephone USA of Wisconsin, the owner and operator of telephone access lines and exchanges in Wisconsin and provider of local exchange, long distance, and Internet service. I also am the owner of Jovon Broadcasting Corporation and First United, Inc., which operate television stations in Chicago, Illinois, the third largest television market in the country. I have over 30 years of experience in the communications industry, in both the broadcasting and wireline telephone sectors.
2. I directed Telephone USA's involvement in the bidding process for the wireless properties that became available as a result of the merger of Verizon Wireless and Alltel.
3. I have read the foregoing response to the FCC's March 12 information request, and I am familiar with the contents thereof.
4. I declare under penalty of perjury that the facts contained herein and in the foregoing response are true and correct to the best of my knowledge, information, and belief formed after reasonable inquiry.


By: Joseph A. Stroud, Chairman

Telephone USA Investments, Inc.
18600 Oak Park Ave.
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708-633-0001

Dated: March 22, 2010

Documents Numbered:

TELEPHONEUSA 0000001-0000879

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